IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.3166 of 2005

Between:

Surampalli Srinivasa Rao, S/o.Pradavenkaiah,

13th Ward, Cheemakurthy, Cheemakurthy Mandal, Prakasam District.

..... PETITIONER

AND

1 The District Collector, (Civil Supplies) Ongole, Prakasam District.
2 The Revenue Divisional officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, Cheemakurthy Mandal, Prakasam

District.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction declaring the action of the respondents herein in proceeding with the bifurcation of Fair Price Shop, 13th ward of Cheemakurthy village of Cheemakurthy Mandal, Prakasam District by virtue of Rc.CS2/79/04, dated 7-2-2005 issued by the 1st respondent herein as arbitrary, illegal, unconstitutional and against the principles of natural justice.

Counsel for the Petitioner: MR.T.NAGARJUNA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the admission stage, made the following:

ORDER:

Questioning the proceedings of the 1st respondent-Collector (Civil Supplies) in Rc. CS2/79/2004, dated 07.02.2005, creating three new fair price shops in 13th Ward of Chimakurthy village and Mandal, duly bifurcating the existing fair price shop of the petitioner and reducing the card strength, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Learned counsel for the petitioner submitted that the 1st respondent without issuing any notice to the petitioner and without conducting any enquiry passed the impugned proceedings arbitrarily. He further submitted that in similar circumstances, this Court in W.P. No. 541 of 2005, by order dated 24-1-2005 directed the respondents to follow the guidelines issued by the Government in memo dated 22.01.1999 in the matter of establishing new fair price shops or bifurcating the existing shops.

On the other hand, learned Government Pleader for Civil Supplies relying on the judgment of the apex Court in **District Collector and another v. B. Suresh,** wherein it was held that bifurcating the shops and reducing the number of cards per shop by the Government cannot be objected to by the existing dealers, submitted that the petitioner has no right whatsoever to question bifurcation of his shop by

reducing the card strength.

This Court, in a similar writ petition in W.P. No. 541 of 2005, dated 24-1-2005, in the matter of establishing new fair price shops, or bifurcating the existing shops, directed the respondents to follow the guidelines issued by the Government in memo dated 22.01.1999. One of the salient features of the said memo is to the following effect:

"……To obviate this unhealthy trend, the following additional guidelines are issued.

i. In rural areas no new F.P. Shop should be sanctioned, if the number of cards to be attached to the fair price shop is less than 350.

ii. In urban areas no new F.P. Shop shall be sanctioned, if the number of cards to be attached to the shop is less than 500.

iii. In city areas no new F.P. Shop shall be sanctioned, if the number of cards to be attached to the shop is less than 800.

If, for special reasons like dissidence or faction in a village or certain social tensions between one community and another due to caste or religious-conflicts, the Collectors may, if they are fully satisfied for splitting the shops, for the benefit of the community, may do so giving reasons for such sanction of new shops.

Similarly, where the total number of cards in a village is less than 350, a shop may be continued/sanctioned. Attaching of cards of one village to a shop in another village should be avoided.

The above guidelines shall apply even to the existing Fair Price Shops. The District Collectors and Chief Rationing Officer, Hyderabad, are requested to review the position and re-organise the Fair Price Shops wherever necessary."

Having regard to the facts and circumstances of the case, and in view of the fact that before passing bifurcating orders the respondents did not follow the guidelines issued by the Government in the memo dated 22.01.1999, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioner is directed to make a representation to the 1st respondent requesting him to follow the guidelines issued in the Memo dated 22.01.1999 before bifurcating his shop, and on receipt of the same, the 1st respondent shall consider the same in terms of Memo dated 22.01.1999, and pass appropriate order in accordance with law, and till such time, the impugned order bifurcating the shop of the petitioner, shall stand stayed. No costs.

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N.V. RAMANA, J.

Date: 21.04.2005

Nsr/Ksr

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SECTION OFFICER

To

1 The District Collector, (Civil Supplies) Ongole, Prakasam District.
2 The Revenue Divisional officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, Cheemakurthy Mandal, Prakasam

District.

4 Two CCs to GP for Civil Supplies, High Court Buildings, Hyderabad

(OUT)

5 Two CD copies